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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/806,006	04/17/2001	Manfred Gerresheim	0656-0249P	1302

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER

MAKI, STEVEN D

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 09/23/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/806,006

Applicant(s)

GERRESHEIM ET AL.

Examiner

Steven D. Maki

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
(a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: new issues: see advisory action attachment.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see advisory action attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1, 2, 4, 5, 7 and 9-15.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

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Advisory Action Attachment

new issues

In claim 1, changing "the width of the narrower grooves in said superwide groove is 10 mm or less and the other tread half has at least two circumferential narrower grooves in comparison thereto, with the superwide groove being at least twice as wide as the broadest of the narrower grooves" (emphasis added) to --there are at least two circumferential narrower grooves in the other tread half, said grooves having a width of 15 mm or less-- (emphasis added) is a new issue.

remarks

Applicant argues that Tanaka fails to teach inclining sidewalls of the superwide groove. More properly: Verdier discloses slightly inclining sidewalls of a wide groove. In particular, Verdier teaches that a small inclination of 2-8 degrees is an alternative to sidewalls oriented at 0 degrees. This teaching provides ample suggestion to use sidewalls slightly inclined at an angle of 2-8 degrees. Orienting the sidewalls of Tanaka at 2 degrees instead of 0 degrees is not a substantial modification of Tanaka. In contrast, it is a change which is suggested by Verdier. The desirability of using slightly inclined walls for the superwide groove of Tanaka is confirmed by Europe '616 which shows slightly inclined sidewalls of a super groove.

Applicant argues that Tanaka and Europe '305 do not disclose the claimed combination of grooves widths. The examiner strongly disagrees. Tanaka discloses a width of 16% TW for the superwide groove and a width of 8% or less for the narrow groove. One of ordinary skill in the art would readily appreciate that the width of 35 mm

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or greater can and should be used to obtain Tanaka's disclosed width of 16% TW or greater for the superwide groove since Europe '305 evidences that 35 mm or greater is a suitable groove width for a superwide groove. For example: Europe '305 discloses obtaining a superwide groove width of 22.6% TW by using a groove width of 38 mm. See embodiment 2 in Table 2. A superwide groove width of 22.6% falls well within Tanaka's disclosed range of 16% TW or greater. A superwide groove width of 38 mm falls well within the claimed range of 35 mm or greater. Similarly, one of ordinary skill in the art would readily appreciate that the width of 10 mm or less can and should be used to obtain Tanaka's disclosed width of 8% or less for the narrower grooves since Europe '305 evidences that a width of 1.5-7 mm is a suitable groove width for a narrow groove. For example: Europe '305 teaches obtaining a narrow groove width of 4.2% using a groove width of 7 mm. A narrow groove width of 4.2% falls well within Tanaka's disclosed range of 8% or less. A narrow groove width of 7 mm falls well within the claimed range of 10 mm or less.

Applicant emphasizes that Europe '305 requires an arcuate groove wall. Examiner emphasizes that Tanaka teaches a superwide groove width of 16% or greater and a narrow groove width of 8% or less. Europe '305's numerical teachings regarding groove width (which is determined at the tread surface when the tire is new) is independent of Europe '305's teaching to use arcuate groove walls; it being noted that Tanaka is the primary reference and that Europe '305's arcuate walls are not being modified. The proper issue therefore is what widths in millimeters can and should be used to obtain Tanaka's groove widths of 16% TW or greater and 8%. The answer

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when considering the applied prior art as a whole is 35 mm or more and 1.5-7 mm respectively.

Applicant comments that the claimed "... sidewalls are conventional sidewalls and not the very special curved sidewall groove of Europe '305". Examiner comments that Verdier and the optionally applied Europe '616 suggest making the minor modification of orienting the sidewalls of Tanaka at an angle of 2-8 degrees instead of 0 degrees.


With respect to applicant's arguments regarding Swift et al and Glover et al, examiner comments that Verdier and the optionally applied Europe '616 suggest making the minor modification of orienting the sidewalls of Tanaka at an angle of 2-8 degrees instead of 0 degrees.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is 703-308-2068. The examiner can normally be reached on Mon. - Fri. 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Ball can be reached on (703) 308-2058. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Steven D. Maki
September 17, 2003


STEVEN D. MAKI 9-17-03
PRIMARY EXAMINER
GROUP 1300
AU 1733